

ANALYSIS OF ORIGINAL BILL

Author: Battin Analyst: Kristina North Bill Number: AB 2219

Related Bills: See Legislative History Telephone: 845-6978 Introduced Date: 02/19/98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Computer Contributions to Public Schools Credit

SUMMARY

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow a credit equal to the fair market value (FMV) of each computer donated to a school. The credit would be limited to 10% of the net income for PITL taxpayers and 10% of income for B&CTL taxpayers for the taxable or income year.

EFFECTIVE DATE

This bill would apply to taxable or income years beginning on or after January 1, 1999, and before January 1, 2004.

LEGISLATIVE HISTORY

SB 405 (1995/96)

SPECIFIC FINDINGS

Existing federal law allows a taxpayer to claim a deduction for a charitable contribution made to a tax exempt organization, including a federal, state, or local governmental entity, and nonprofit groups that are religious, charitable, educational, scientific, literary, or work to prevent cruelty to children or animals. A charitable contribution includes gifts to, or for the use of, tax exempt organizations. These gifts may be in the form of money or property. If property is donated as a charitable contribution, the taxpayer must generally determine the property's fair market value. However, if an item is valued over \$5,000, an appraisal is generally required to verify its value.

The amount of the deduction allowable for a taxable or income year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer. Corporations generally are limited

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___X___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO ___

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department Director

Date

G. Alan Hunter

3/23/98

Agency Secretary

Date

By:

Date

to 10% of their net income (computed without regard to the contributions) for the taxable year.

This bill would allow a credit for the FMV of each qualified computer, as defined. The credit would be limited to 10% of the net income for PITL taxpayers and 10% of income for B&CTL taxpayers for the taxable or income year.

This bill defines the following terms:

- ◆ "qualified computer" means any computer with a central processing unit, monitor and keyboard certified by a qualified facilitator or qualified refurbisher as a complete computer system in good working condition or suitable for reconditioning and placement in a qualified recipient classroom. The taxpayer must be the original computer user and the donation must occur within three years of the taxpayer's purchase of the computer. The Board of Education would be responsible for setting forth basic standards for a qualified computer.
- ◆ "qualified facilitator" means a nonprofit organization that arranges for computers to be refurbished by a qualified refurbisher in a California vocational training program and places those computers in school classrooms and educational training facilities.
- ◆ "qualified refurbisher" means a California nonprofit or governmental organization that refurbishes computers in a vocational training program that places those computers in school classrooms and educational facilities of qualified recipients.
- ◆ "qualified recipient" means any California public or private school with grades K-12, public postsecondary college or university or private nonprofit postsecondary college or university.
- ◆ "fair and nondiscriminatory manner" means a distribution process that allows every public or private nonprofit school with grades K-12 to "self-select" computers by "making a self-help effort."

This bill would require the Board of Education to certify qualified facilitators and refurbishers and review procedures for collecting, refurbishing and distributing computers of any organization acting or planning to act as a qualified facilitator or refurbisher.

Any deduction that would otherwise be allowed for the contribution would be reduced by the amount of the allowable credit.

Since this credit does not specify otherwise, the general rules applicable to dividing credits would apply, and this credit would not reduce regular tax below tentative minimum tax, for alternative minimum tax purposes.

Implementation Considerations

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

- ◆ Definitions are needed for "refurbish," "recondition," "self-select," and "making a self-help effort," particularly if the department, rather than the State Board of Education, would be responsible for interpreting these terms.
- ◆ This bill limits the credit to 10% of an individual taxpayer's "net income." The term "net income" is defined in the B&CTL as the gross income computed under the B&CTL, less deductions allowed under the B&CTL for banks and corporations. Because individuals have no "net income," the PITL limitation would have no effect. It is unclear if the author intended to limit the credit based on an individual taxpayer's adjusted gross income, gross income, etc. This issue should be clarified.
- ◆ Additionally, this bill would limit the credit for B&CTL taxpayers to 10% of the "corporation's income." However, this bill does not specify if the "corporation's income" would include business and/or nonbusiness income, net income, gross income, etc. The term "income" needs to be clarified.
- ◆ While the definition for qualified recipients includes public and private, nonprofit colleges and universities, the definition of "fair and nondiscriminatory manner" limits recipients to public and private nonprofit schools with grades K-12, excluding colleges and universities. To prevent confusion, this contradiction should be corrected.
- ◆ It is unclear what would occur if the FMV of the donated equipment exceeded the credit limitations. For example, it is unclear if the author's intent is that any amounts donated in excess of the credit limitation would be lost for the purposes of this credit.
- ◆ This bill does not contain a certification process to determine if a taxpayer was the original user of the computer and that the donation occurred within three years from the date of purchase of the computer.

Technical Considerations

Within the definition of "qualified facilitator," this bill refers to "educational training facility," while within the definition of "qualified refurbisher," it refers to "educational facility." The terms should be consistent.

This bill uses the terms "reconditioning" and "refurbishing." If these terms are meant to be interchangeable, the author may wish to use only one term for consistency.

This bill allows a credit for the "FMV" of each qualified computer. While it appears that the "FMV" for which the credit is allowed is the same FMV that is certified by the qualified facilitator or qualified refurbisher, the point is not clear, and clarification should be made.

FISCAL IMPACT

Departmental Costs

With implementation concerns resolved, this bill should not significantly impact the department's costs.

Tax Revenue Estimate

Based on data and assumptions discussed below, this bill would result in revenue losses as shown below:

| Estimated Revenue Impact of AB 2219 Taxable/Income Years Beginning After 12/31/1998 (In \$Millions) | | | |
|--|---------|---------|---------|
| Fiscal Years | 1998/99 | 1999/00 | 2000/01 |
| Revenue Impact | (minor) | (2) | (3) |

Note: (minor) means less than \$250,000

Any possible changes in employment, personal income, or gross state product that might result from this bill are not taken into account.

Tax Revenue Discussion

Revenue losses would depend on the market value of donated computers, tax liabilities of affected taxpayers, and the net income limitation for maximum credits.

According to an article in the Sacramento Bee on March 4, 1998, the Detwiler Foundation reported that around 35,000 refurbished computers have been donated to California schools since 1991 (i.e., 5,000 per year, on average). It is assumed that this proposed 100% tax credit (subject to the net income limitation) would double the number of computer donations for the first full year. The market value of older computer systems with mostly 386 and 486 processors is estimated to be around \$250 per unit. The revenue loss, after allowing for the deduction offset, would be on the order of \$2 million for 1999/00, increasing by perhaps 50% in the subsequent year.

BOARD POSITION

Pending.